

LFC Requester:**Julia Downs**

**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date January 28, 2016

Bill No: HB 265

Sponsor: Antonio "Moe" Maestas

Agency Code: 305

Short Bench & Arrest Warrant

Person Writing AAG Zach Jones

Title: Notifications

Phone: 505-252-4950 **Email** zjones@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
X	X	X	X

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
X	X	X	X	X

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	X	X	X	X	X	X

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None

Duplicates/Relates to Appropriation in the General Appropriation Act: n/a

SECTION III: NARRATIVE

BILL SUMMARY

HB 265 makes it a court's responsibility to "promptly" contact the local sheriff when the court issues an arrest/bench warrant. The sheriff must "immediately" input the warrant into NCIC.

HB 265 appears to also make it a court's responsibility to contact the local district attorney within twenty-four hours of the issuance of an arrest/bench warrant. The district attorney must then notify "the appropriate law enforcement agencies" and a bonding company, if one is tied to the case. Notification of a bonding company must occur within twenty four hours if the fugitive is out on bail.

HB 265 finally states that upon learning of the warrant, law enforcement and the bonding company shall "as immediately as practical, take reasonable, affirmative steps to apprehend the person."

FISCAL IMPLICATIONS

HB 265 places new, affirmative notification responsibilities upon courts and district attorneys. The proposed law also places new burdens upon law-enforcement personnel in regards to searching for fugitives. HB 265 does not, however, directly provide any funding to aid in its implementation.

SIGNIFICANT ISSUES

The imprecise wording of HB 265 raises questions:

1. Whose responsibility is it to notify district attorneys of the warrants? Subsection A. is clear that responsibility for notifying a sheriff lies with the court. But Subsection B. is unclear as to who must notify the district attorneys – the court or the sheriff?

2. HB 265 requires district attorneys to notify “appropriate law enforcement agencies” of warrants. This provision implies that notification of local agencies may not suffice. It would be helpful if the proposal contained more guidance as to what constitutes an “appropriate” agency for notification purposes.
3. The notification requirements of HB 265 seem duplicative. It is a court’s responsibility to notify a local sheriff. A court presumably also has to notify the local district attorney (though this is not even clear), who in turn also notifies local law enforcement, which will probably include the same local sheriff already notified by the court.
4. HB 265 requires law enforcement to “as immediately as practical, take reasonable, affirmative steps to apprehend the person.” At present, when a court issues an arrest warrant, it directs law enforcement to arrest the person “without unnecessary delay.” NMSA 1978, Section 31-1-4(C) (1975). No comparable standard exists for bench warrants. It is concerning that HB 265 places a new, heightened responsibility upon law enforcement to take affirmative steps to arrest the person, without stating what affirmative steps would serve as reasonable under the statute.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS